

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In re Application of	)	Facility ID No. 21416
	)	NAL/Acct. No. MB-201541410039
<b>BBC Broadcasting, Inc.</b>	)	FRN: 0006653356
	)	
For Renewal of License for	)	File No. BR-20130927AJA
Station KRPI(AM)	)	
Ferndale, Washington	)	

**ORDER**

**Adopted: December 22, 2015**

**Released: December 23, 2015**

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (“Bureau”) and BBC Broadcasting, Inc. (“BBC”), licensee of Station KRPI(AM), Ferndale, Washington (“Station”). The Consent Decree terminates the Bureau’s investigation into issues raised in a Petition to Deny (“Petition”) as well as various informal objections (“Objections”) filed against the captioned license renewal application (“Renewal Application”) for the Station.<sup>1</sup> In light of the Consent Decree, we also deny the Petition, Objections, and all responsive and supplemental pleadings opposing grant of the Renewal Application.

2. The Consent Decree terminates the Bureau’s investigation into all potential violations of the Communications Act and Commission’s Rules relating to the Renewal Application, including allegations raised in the Petition, Objections, and all responsive and supplemental pleadings opposing grant of the Renewal Application. The Consent Decree finds that termination of the investigation into BBC’s qualifications to be a Commission licensee is warranted based upon the Bureau’s review of the record including the facts, detailed in the Consent Decree, that have changed since the Petition and Objections were filed. In light of the Bureau’s review and investigation and taking into account these new facts and the Consent Decree resolving this matter, we conclude that the public interest, convenience, and necessity will be served by grant of the Renewal Application, and accordingly we deny the Petition, Objections, and all responsive and supplemental filings opposing grant of the Renewal Application.

3. The Consent Decree stipulates that the matters alleged in the Petition, Objections, and responsive and supplemental pleadings, raise no substantial or material questions of fact as to whether BBC possesses the basic qualifications, including those related to character, to hold a Commission license or authorization. The Consent decree further stipulates that the Station meets the requirements for renewal

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<sup>1</sup> The Point Roberts Taxpayers Association (“PRTA”) filed the Petition on December 26, 2013. The Objections were filed by the Cross-Border Coalition (“CBC”) on January 6, 2014; Vicki Huntington, M.L.A., on June 30, 2014; Mark A. Robbins on August 22, 2014; Beverley and Donald Alder on September 3, 2014; Renee Coe on October 6, 2014; Ulf K. Ottho on October 6, 2014; Donald Steven Graham on October 7, 2014; Arthur S. Reber, PhD on April 21, 2015; Steve Wolff and James Ronback (“Wolff/Ronback”) on May 18, 2015; and Whidbey Telephone Company (“WTC”) on August 27, 2015 (collectively “Objectors”).

of a broadcast license set forth in Section 309(k) of the Communications Act.<sup>2</sup> The Consent Decree provides that BBC will make a voluntary \$10,000 payment to the United States Treasury, in consideration of the Bureau's terminating the investigation into the allegations against BBC. A copy of the Consent Decree is attached hereto and is incorporated by reference.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating the Bureau's investigation of potential violations of the Act and the Rules in connection with the Renewal Application. We have further examined the pending Renewal Application and find, pursuant to Section 309(k) of the Communications Act,<sup>3</sup> that: (i) BBC has committed no serious violations of the Communications Act or the Commission's Rules; (ii) BBC has committed no other violations of the Communications Act or the Commission's Rules that, taken together, constitute a pattern of abuse; and (iii) the Station has served the public interest, convenience, and necessity.

5. Accordingly, in light of the adoption of the attached Consent Decree, IT IS ORDERED that the Petition to Deny filed by the Point Roberts Taxpayers Association, and the informal objections filed by the Cross-Border Coalition; Vicki Huntington, M.L.A.; Mark A. Robbins; Beverley and Donald Alder; Renee Coe; Donald Steven Graham; Ulf K. Ottho; Arthur S. Reber, PhD; Steve Wolff and James Ronback; and Whidbey Telephone Company, and all responsive and supplemental filings opposing grant of the Renewal Application, ARE DENIED.

6. IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,<sup>4</sup> and by the authority delegated by Sections 0.61 and 0.283 of the Rules,<sup>5</sup> the Consent Decree attached hereto IS ADOPTED.

7. IT IS FURTHER ORDERED that the investigation by the Media Bureau of the matters noted above IS TERMINATED.

8. IT IS FURTHER ORDERED that copies of this Order shall be sent, by First Class and Certified Mail-Return Receipt Requested, to Mr. Bhag S. Khela, President, BBC Broadcasting, Inc., P.O. Box 3213, Ferndale, WA 98248, and to its representative, Mark N. Lipp, Esq., Wiley Rein LLP, 1776 K Street, N.W., Washington, DC 20006; to the representative for Point Roberts Taxpayers Association, Frederick M. Joyce, Esq., and Robert Hartwell, Esq., Venable LLP, 575 7<sup>th</sup> Street, N.W., Washington, DC 20004; to the Cross-Border Coalition, c/o Arthur S. Reber, PhD, 2226 Sunrise Drive, Point Roberts, WA 98281; to Hon. Vicki Huntington, M.L.A., 4805 Delta Street, Delta, BC V4K 2T7, CANADA; to Mark A. Robbins, 2110 Deer Road, P.O. Box 141, Point Roberts, WA 98281-0141; to Beverley and Donald Alder, 709 Juniper Place, Delta, BC V4M 1X8, CANADA; to Renee Coe, 1986 Cedar Park Drive, Point Roberts, WA 98281; to Ulf K. Ottho, 5040 10A Avenue, Delta, BC V4M 1X8, CANADA; to Donald Steven Graham, 46 Parkgrove Crescent, Tsawwassen (Delta), BC V4L 2G3, CANADA; to Arthur S. Reber, PhD, 2226 Sunrise Drive, Point Roberts, WA 98281; to Steve Wolff and James Ronback, c/o Steve Wolff, MSME/BSEE, 1900 Cliff Road, Point Roberts, WA 98281; and to Bruce Russell, Chief

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<sup>2</sup> 47 U.S.C. § 309(k).

<sup>3</sup> *Id.*

<sup>4</sup> 47 U.S.C. § 154(i).

<sup>5</sup> 47 C.F.R. §§ 0.61, 0.283.

Operating Officer, Whidbey Telephone Company, 14888 SR 525, Langley, WA 98260, and to its representative, D. Cary Mitchell, Esq., and John A. Prendergast, Esq., Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP, 2120 L Street, N.W., Washington, DC 20037.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake  
Chief, Media Bureau

CONSENT DECREE**I. Introduction**

1. This Consent Decree is entered into by: (a) the Media Bureau of the Federal Communications Commission; and (b) BBC Broadcasting, Inc., licensee of Station KRPI(AM), Ferndale, Washington.

**II. Definitions**

2. For the purposes of this Consent Decree, the following definitions shall apply:
  - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §§151 *et seq.*;
  - (b) “BBC” means BBC Broadcasting, Inc., a Washington corporation, licensee of Station KRPI(AM), Ferndale, Washington;
  - (c) “Bureau” means the Media Bureau of the Federal Communications Commission;
  - (d) “Commission” or “FCC” means the Federal Communications Commission;
  - (e) “Effective Date” means the date on which the Bureau releases the Order;
  - (f) “Final Order” means the status of the Order after the period for administrative and judicial review has lapsed;
  - (g) “Investigation” means the Bureau’s investigation of the allegations contained in the Petition and Objections;
  - (h) “Objections” means the informal objections filed by the Cross-Border Coalition on January 6, 2014; Vicki Huntington, M.L.A., on June 30, 2014; Mark A. Robbins on August 22, 2014; Beverly and Donald Alder on September 3, 2014; Renee Coe on October 6, 2014; Ulf K. Ottho on October 6, 2014; Steve Graham on October 7, 2014; Arthur S. Reber, PhD on April 21, 2015; Steve Wolff and James Ronback on May 18, 2015; and Whidbey Telephone Company on August 27, 2015, all alleging one or more violations of the Act and/or the Rules by BBC;
  - (i) “Order” means an order of the Bureau adopting this Consent Decree;
  - (j) “Parties” means BBC and the Bureau;
  - (k) “Petition” mean the Petition to Deny filed by the Point Roberts Taxpayers Association on December 26, 2013, alleging one or more violations of the Act and/or the Rules by BBC;
  - (l) “Renewal Application” means the FCC Form 303-S application filed by BBC for renewal of its license for the Station (File No. BR-20130927AJA);
  - (m) “Rules” means the Commission’s regulations set forth in Title 47 of the Code of Federal Regulations;

(n) “Sher-E-Punjab” means Sher-E-Punjab Radio Broadcasting, Inc., a Canadian corporation;

(o) “Station” means Station KRPI(AM), Ferndale, Washington (Facility ID No. 21416), licensed to BBC.

### III. Background

3. On September 27, 2013, BBC filed the Renewal Application. The Petition and Objections were filed with respect to the Renewal Application, and the Bureau thereafter commenced the Investigation to determine whether BBC had violated the Act and/or the Rules.

4. Specifically, PRTA and the Objectors allege that BBC: (1) allowed the ownership and/or control of the Station to be assumed by a real party/parties in interest who were not the individual shareholders of BBC, in violation of Section 310(d) of the Act and Section 73.3540 of the Rules;<sup>1</sup> (2) allowed the Station to exceed the ownership or control by foreign citizens allowed by Section 310(b)(3) of the Act,<sup>2</sup> specifically, that the ownership and/or control of the Station was held by Sher-E-Punjab, a Canadian corporation that had entered into a time brokerage agreement with BBC, or by individual Canadian citizens associated with Sher-E-Punjab; (3) would cause impermissible blanketing interference and/or interference to voice telephony and broadband services with its formerly proposed facility at Point Roberts, Washington; (4) lacked candor by failing to disclose the population of Tsawwassen, British Columbia, as potential recipients of alleged blanketing interference; and (5) did not comply with the local public notice provisions of Section 73.3580(c)(3) of the Rules.<sup>3</sup>

5. BBC has denied allegations (1) and (2) and represented, inter alia, that it terminated its time brokerage agreement with Sher-E-Punjab as of October 13, 2014, and that as of that date it has assumed production of all Station programming in the time periods previously leased to Sher-E-Punjab. BBC has further represented that on November 6, 2014, its majority shareholder, Mr. Bhag Singh Khela, a U.S. citizen, completed his acquisition of the 20 percent of BBC shares held by Gurdial S. Badh, a Canadian citizen and officer of Sher-E-Punjab, and that with this acquisition Mr. Khela now owns 100 percent of the shares of BBC. With regard to allegations (3) through (5), these are collateral attacks on BBC’s already-granted and final modification application to erect an antenna array at Point Robert, Washington,<sup>4</sup> rather than objections to the Renewal Application. As BBC has been unsuccessful in obtaining a Conditional Use Permit for construction of its proposed tower array at Point Roberts, it has stated that it will not pursue the appeal process further and is abandoning its plans for that site.<sup>5</sup>

6. Based upon its review of the Petition, the objections, and responsive and supplemental pleadings and other submissions, including the changed facts discussed above, the Bureau finds it appropriate to terminate the Investigation, and the Parties have agreed to enter into this Consent Decree, to which BBC and the Bureau intend to be legally bound.

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<sup>1</sup> 47 U.S.C. § 310(d); 47 C.F.R. § 73.3540.

<sup>2</sup> 47 U.S.C. § 310(b)(3).

<sup>3</sup> 47 C.F.R. § 73.3580(c)(3).

<sup>4</sup> File No. BP-20090226AAF (“CP Application”). See *Saver Media, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 9345, 9348 (MB 2014), and cases cited therein.

<sup>5</sup> *Supplemental Statement of BBC Broadcasting, Inc.*, filed Nov. 12, 2015.

#### IV. Agreement

7. The Parties acknowledge that any proceeding that might result from the Investigation will be time-consuming and will require the expenditure of public and private resources. In order to conserve such resources, the Parties are entering into this Consent Decree in consideration of the mutual commitments made herein.

8. The Parties agree to be legally bound by the terms and conditions of this Consent Decree. BBC and the Bureau each represents and warrants that its signatory is duly authorized to enter into this Consent Decree on its behalf. BBC agrees that the Commission has jurisdiction over the matters contained in this Consent Decree and the authority to enter and adopt this Consent Decree.

9. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Communications Act or the Commission's rules. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, BBC does not admit or deny any liability for violating the Act or Commission rules in connection with the matters that are the subject of this Consent Decree.

10. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between them concerning the Bureau's Investigation of the matters discussed herein. The Bureau finds that its Investigation raises no substantial and material questions of fact as to whether BBC possesses the basic qualifications, including those relating to character, to hold or obtain a Commission license or authorization. The Bureau further finds that its Investigation raises no substantial and material questions of fact as to whether BBC has committed serious violations of the Communications Act or the Commission's Rules; whether it has committed other violations of the Communications Act or the Commission's Rules that, taken together, constitute a pattern of abuse; or whether the Station has served the public interest, convenience, and necessity; and thus as to whether BBC has met the requirements for renewal of the Station license, pursuant to Section 309(k) of the Act.<sup>6</sup>

11. The Parties agree that this Consent Decree shall become effective on the Effective Date. Upon the Effective Date, the Order and this Consent Decree shall have the same force and effect as any other order of the Bureau and any violation of the terms of this Consent Decree shall constitute a separate violation of a Bureau order, entitling the Bureau or the Commission to exercise any rights and remedies attendant to the enforcement of a Bureau order.

12. As part of the Order, the Bureau shall terminate the Investigation and deny the Petition and Objections. Additionally, the Bureau shall grant the Renewal Application after the Effective Date, provided that the following conditions have been met: (1) BBC has fully and timely satisfied its obligation to make payment of its voluntary contribution as specified in Paragraph 13 below; and (2) there are no issues unrelated to the matters addressed in the Bureau's Investigation that would preclude grant of the Renewal Application. In the event that there are issues that would preclude the grant of the Renewal Application, the Renewal Application will remain pending.

13. From and after the Effective Date, the Bureau shall not, either on its own motion or in response to third-party objection, initiate any inquiries, investigations, forfeiture proceedings, hearings, or other sanctions or actions against BBC or the Station, based in whole or in part on (i) the Investigation, (ii) the Petition, (iii) the Objections, (iv) any other similar complaints (by whomever made) alleging that

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<sup>6</sup> 47 U.S.C. § 309(k).

violations alleged in the Petition or Objections occurred prior to the Effective Date, (v) the allegations contained in any of the foregoing, or (vi) any other potential violations of the Act or the Rules pertaining to the license period covered by the Renewal Application. The Bureau agrees that, in the absence of material new evidence, it will not, on its own motion, initiate or recommend to the Commission any new proceeding, formal or informal, with regard to any violations of the Act, the Rules, or Commission policy, that occurred prior to the Effective Date. The Bureau further agrees that, in the absence of material new evidence, it will not use the facts developed in the Investigation prior to the Effective Date to initiate on its own motion, or recommend to the Commission, any proceeding, formal or informal, or take any action on its own motion against BBC with respect to their respective basic qualifications to be or remain a Commission licensee. Nothing in this Consent Decree shall prevent the Bureau from instituting, or recommending to the Commission, new investigations or enforcement proceedings against BBC in the event of any alleged future misconduct, for violation of this Consent Decree, or for violation of the Act or the Rules, consistent with the provisions of this Consent Decree.

14. In consideration of the foregoing, BBC hereby agrees to make a voluntary payment to the United States Treasury in the amount of Ten Thousand Dollars (\$10,000), within thirty (30) calendar days after the Effective Date. BBC will also send electronic notification of payment to Penelope Dade at Penelope.Dade@fcc.gov and Thomas Nessinger at Thomas.Nessinger@fcc.gov on the date said payment is made. Such payment will be made, without further protest or recourse to a *trial de novo*, by a check or similar instrument, wire transfer or credit card and must include the Account Number and FRN referenced in the caption to the Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

15. BBC agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that BBC fails to satisfy any condition, in the absence of Commission alteration of the condition or Rule, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, designation of the matter for hearing, letters of admonishment, or forfeitures.



16. BBC waives any and all rights that it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided that the Order adopts the Consent Decree without change, addition or modification.

17. BBC waives any claims that it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 et seq., relating to the matters discussed in this Consent Decree.

18. If any Party (or the United States on behalf of the FCC) brings a judicial action to enforce the terms of the Order, none of the Parties shall contest the continuing validity of the Consent Decree or the Order. BBC and the Bureau further agree that they will waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and that they will consent to a judgment incorporating the terms of this Consent Decree.

19. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

20. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

MEDIA BUREAU  
FEDERAL COMMUNICATIONS COMMISSION

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William T. Lake, Chief

\_\_\_\_\_  
Date

BBC BROADCASTING, INC.

\_\_\_\_\_  
By: Bhag Singh Khela, President

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Date